

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

F

7  
FILED

OCT 20 2005

CLERK'S OFFICE  
DETROIT

RICHARD A. MCBRAYER,

Petitioner,

V.

Case No. ES 04-CV-73235 DT  
Hon. Lawrence P. Zatkoff

HUGH WOLFENBARGER, Warden,

Respondent. /

BRENDA E. TURNER (P24705)  
Assistant Attorney General  
Attorney for Respondent  
Criminal Appellate Division  
P.O. Box 30217  
Lansing, MI 48909  
Tel: (517) 373-4875

RICHARD MCBRAYER  
Inmate No. 235965  
Petitioner In Pro Per  
Macomb Correctional Facility  
34625 26 Mile Road  
New Haven, MI 48048

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

NOW COMES the petitioner, RICHARD A. MCBRAYER, and respectfully asks this Honorable Court for leave to file the accompanying Motion to Reopen Time for Appeal, Motion for Certificate of Appealability, and Notice of Appeal without prepayment of costs and fees and to proceed in forma pauperis, says as follows:

1. Your petitioner has been incarcerated on his current state court conviction since March 2, 1994, and unable to work at any civilian employment.

2. Your petitioner does not own or receive any money from

any business, profession or other self-employment; rent payments, interest or dividends; nor does your petitioner receive any pensions, annuities or life insurance payments, disability or worker compensation benefits, inheritances or gifts of any kind. Further, your petitioner does not own any real or personal property, boats, cars, motor cycle or vehicles, nor does he own any checking or savings accounts.

3. The only income your petitioner receives is from his prison work assignment, and a verified statement of his prison account over the previous six months is attached hereto.

4. Your petitioner was found a pauper by the state trial court and represented in the trial court level and on direct review by state appointed counsel.

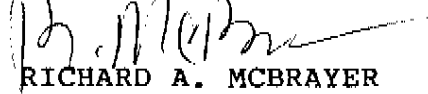
5. That the meager money your petitioner earns from his prison work assignment is used to purchase soap, shampoo, toothpaste, toothbrushes, and other hygiene products which are not provided by the state prison system but must be brought from the prison commissary unless the prisoner is not receiving money from family, friends, or an assigned prison assignment.

6. That further your petitioner saith not.

I declare under penalty of perjury that the facts contained herein are true, correct and accurate to the best of my own personal knowledge and belief.

WHEREFORE, your petitioner asks this Court to declare him a pauper and waive the costs for off-setting his motions and future appeal.

Respectfully submitted,



RICHARD A. MCBRAYER  
Inmate No: 235965  
Macomb Correctional Facility  
34625 26 Mile Road  
New Haven, MI 48048

Dated: October 17, 2005.

**FEDERAL COURT - CIVIL ACTION**

Prisoner-Plaintiff/Petitioner/Appellant name and number

Richard McBrayer  
04-cv-73235-DT

V

Defendant's/Respondent's/Appellee's name

Hugh Wolfenbarger

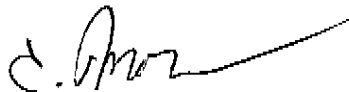
**CERTIFICATE OF PRISONER INSTITUTIONAL/TRUST FUND ACCOUNT ACTIVITY**

I am employed by the Michigan Department of Corrections at the facility identified below, at which the prisoner identified as the Plaintiff/Petitioner/Appellant is currently incarcerated.

Attached is a computer printout which accurately reflects the current spendable balance and all activity within this prisoner's account during the preceding six months or, if the prisoner has been incarcerated for less than six months, for the period of incarceration.

The attached printout reflects, for the reported period, an average monthly account deposit (i.e., total deposits divided by number of months) of \$14.16, an average monthly account balance (i.e., total deposits minus total withdrawals divided by number of months) of \$0.00. There is a current spendable account balance of \$1.35.

Date: 06/15/05



\_\_\_\_\_  
Signature of Custodian of Prisoner Institutional/Trust Fund Account

Macomb Correctional Facility  
Correctional Facility

06/15/2005 11:29:04

## Michigan Department Of Corrections

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## Trust Account Statement

For the period 01/15/2005 to 06/15/2005

MDOC Nbr.: 235965	Name: MCBRAYER, RICHARD ALLEN	Current Lock Loc.: 1-047-B
Birth Date: 10/07/1957	Location: MACOMB CORRECTIONAL FA	Jurisdiction Dates: 03/04/1994
Current Balance: 17.35	Hold Balance: .00	Account Dates: 02/26/2002
		Active: Yes
		A/C. Status: Active

**Sub Account Details**

Account Code	Account Name	Balance As of 01/15/2005	Balance As of 06/15/2005
<b>Trust-Macomb Facility Caseload</b>			
2101	Offender Funds	38.12	17.35
2198	Freeze	0.00	0.00

**Debts & Obligations****Transaction Details**

GJ No.	Date	Description	Debit	Credit
<b>Trust-Macomb Facility Caseload</b>				
11864252	01/20/2005	<b>CRT Commissary Regular Transaction</b>	13.49	
		2101 Offender Funds	13.49	
		2501 Payable to Commissary		13.49
		<i>Narration: Rost -Commissary TXN -</i>		
11981805	02/02/2005	<b>PR Payroll Receipt</b>	60.80	
		1116 Payroll Receipts	60.80	
		2101 Offender Funds		60.80
		<i>Narration: Batch: 456114, Ref:MRF-10597 PR Maint</i>		
12038171	02/07/2005	<b>CRT Commissary Regular Transaction</b>	58.01	
		2101 Offender Funds	58.01	
		2501 Payable to Commissary		58.01
		<i>Narration: Rost -Commissary TXN -</i>		
12040959	02/07/2005	<b>CRT Commissary Regular Transaction</b>	3.00	
		2101 Offender Funds	3.00	
		2501 Payable to Commissary		3.00
		<i>Narration: Rost -Commissary TXN -</i>		
12215987	02/17/2005	<b>CRT Commissary Regular Transaction</b>	9.08	
		2101 Offender Funds	9.08	
		2501 Payable to Commissary		9.08
		<i>Narration: Rost -Commissary TXN -</i>		
12338684	03/02/2005	<b>PR Payroll Receipt</b>	66.88	
		1116 Payroll Receipts	66.88	
		2101 Offender Funds		66.88
		<i>Narration: Batch: 469089, Ref:MRF-10905 PR Maint</i>		
12373455	03/04/2005	<b>CRT Commissary Regular Transaction</b>	47.47	
		2101 Offender Funds	47.47	
		2501 Payable to Commissary		47.47
		<i>Narration: Rost -Commissary TXN -</i>		
12538799	03/16/2005	<b>LPOSPBF Legal Postage Disbursement (PBF)</b>	1.06	
		2101 Offender Funds	1.06	
		2582 Postage (PBF) Payable - Direct		1.06
		<i>Narration: Batch: 475926, Ref:MRF-11055 -</i>		
12538801	03/16/2005	<b>LPOSPBF Legal Postage Disbursement (PBF)</b>	.83	
		2101 Offender Funds	0.83	
		2582 Postage (PBF) Payable - Direct		0.83
		<i>Narration: Batch: 475926, Ref:MRF-11055 -</i>		
12562925	03/17/2005	<b>CRT Commissary Regular Transaction</b>	8.73	
		2101 Offender Funds	8.73	
		2501 Payable to Commissary		8.73
		<i>Narration: Rost -Commissary TXN -</i>		
12656102	03/28/2005	<b>LPOSPBF Legal Postage Disbursement (PBF)</b>	.83	
		2101 Offender Funds	0.83	

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**Michigan Department Of Corrections**  
**Trust Account Statement**  
**For the period 01/15/2005 to 06/15/2005**

Page 2 of 2

MDOC Nbr.: 235965	Name: MCBRAYER, RICHARD ALLEN	Current Lock Loc.: 1-047-B
Birth Date: 10/07/1957	Location: MACOMB CORRECTIONAL FA	Jurisdiction Dates: 03/04/1994
Current Balance: 17.35	Hold Balance: .00	Account Dates: 02/26/2002
		Active: Yes
		A/C. Status: Active

GJ No.	Date	Description	Debit	Credit
<b>Trust-Macomb Facility Caseload</b>				
		2582 Postage (PBF) Payable - Direct		0.83
		<i>Narration: Batch: 481192, Ref:MRF-11199 -</i>		
12656103	03/28/2005	<b>LPOSPBF Legal Postage Disbursement (PBF)</b>	.60	
		2101 Offender Funds	0.60	
		2582 Postage (PBF) Payable - Direct		0.60
		<i>Narration: Batch: 481192, Ref:MRF-11199 -</i>		
12708407	04/01/2005	<b>PR Payroll Receipt</b>	69.92	
		1116 Payroll Receipts	69.92	
		2101 Offender Funds		69.92
		<i>Narration: Batch: 483496, Ref:MRF-11264 PR Maint</i>		
12729593	04/04/2005	<b>CRT Commissary Regular Transaction</b>	76.78	
		2101 Offender Funds	76.78	
		2501 Payable to Commissary		76.78
		<i>Narration: Rost -Commissary TXN -</i>		
13037456	04/28/2005	<b>CRT Commissary Regular Transaction</b>	15.57	
		2101 Offender Funds	15.57	
		2501 Payable to Commissary		15.57
		<i>Narration: Rost -Commissary TXN -</i>		
13089273	05/04/2005	<b>PR Payroll Receipt</b>	72.96	
		1116 Payroll Receipts	72.96	
		2101 Offender Funds		72.96
		<i>Narration: Batch: 497798, Ref:MRF-11633 PR Maint</i>		
13224854	05/13/2005	<b>CRT Commissary Regular Transaction</b>	71.67	
		2101 Offender Funds	71.67	
		2501 Payable to Commissary		71.67
		<i>Narration: Rost -Commissary TXN -</i>		
13378538	05/26/2005	<b>CRT Commissary Regular Transaction</b>	1.49	
		2101 Offender Funds	1.49	
		2501 Payable to Commissary		1.49
		<i>Narration: Rost -Commissary TXN -</i>		
13449491	06/03/2005	<b>PR Payroll Receipt</b>	100.32	
		1116 Payroll Receipts	100.32	
		2101 Offender Funds		100.32
		<i>Narration: Batch: 511396, Ref:MRF-11922 PR Maint</i>		
13527073	06/09/2005	<b>CRT Commissary Regular Transaction</b>	83.04	
		2101 Offender Funds	83.04	
		2501 Payable to Commissary		83.04
		<i>Narration: Rost -Commissary TXN -</i>		
<b>Total Receipts:</b>				<b>370.88</b>
<b>Total Disbursements:</b>				<b>391.65</b>

SDMS

DATE: 6-9-05

TO: PRISONER ACCOUNT CLERK

FROM: RICHARD MCBRAYER  
Prisoner Name

235965  
Prisoner Number

1-47-B  
Prisoner Lock

I require a "Certificate Establishing Prisoner Account Activity":

\_\_\_\_\_ Circuit Court in the County of \_\_\_\_\_

Southern Division U.S. District Court, District Number EASTERN District

\_\_\_\_\_ Michigan Court of Appeals at \_\_\_\_\_

\_\_\_\_\_ Other (Specify)

The plaintiff in this case is: RICHARD MCBRAYER

The defendant in this case is: HUGH WOLFENBARGER

Case Number 04-CV-73235-BT

Prisoner's Signature: R. McBrayer

Prisoner's Number: 235965

You should receive the statement of account in 7 to 10 working days.  
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